
City of Sherwood, Oregon
Planning Commission
June 10, 2014

Planning Commission Members Present: Staff Present:

Chair Jean Simson

Vice Chair James Copfer

Commissioner John Clifford

Commissioner Beth Cooke

Commissioner Sally Robinson

Julia Hajduk, Community Development Director

Bob Galati, Civil Engineer

Brad Kilby, Planning Manager

Michelle Miller, Senior Planner

Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Russell Griffin

Commissioner Lisa Walker

Council Members Present:

Councilor Robyn Folsom

Legal Counsel:

Chris Crean

1. Call to Order/Roll Call

Chair Jean Simson called the meeting to order at 7:03 pm.

2. Agenda Review

The agenda consisted of a public hearing for PUD 14-01/ SUB 14-01 Cedar Brook PUD

3. Consent Agenda

There was no Consent Agenda

4. Council Liaison Announcements

Councilor Folsom announced that the City budget was up for adoption at the next City Council meeting and invited all concerned citizens to come. She added that the Transportation System Plan (TSP) update was also scheduled for that night, but it may be carried over to July 1st. She stated that she would be going to Washington DC to advocate for the City with various agencies. Councilor Folsom said that the City had been hoping for \$50,000, but was awarded a \$200,000 grant to help study the [Frontier Leather] tannery site on Oregon Street. She said the awarding of the grant was due to efforts by staff, that it acknowledged concerns regarding the site, and that the federal government was willing to help address those concerns.

Council Folsom said that it was shaping up to be a busy schedule for the City Council and commented that the Community Center was starting to grow vertically.

5. Staff Announcements

Brad Kilby, Planning Manager, stated that there will be a Planning Commission meeting on June 24th for a landmark alteration and said that he met with TriMet earlier that day. He said TriMet would be

introducing the first draft of the Service Enhancement Plan that included the Sherwood area. Brad said TriMet was looking at providing service to the YMCA and adding service between Sherwood and Tualatin was a priority of the plan.

6. Community Comments

Tony Bevel, Sherwood resident, commented that he lived on SW Lynnly Way and wanted to address that there was no traffic calming on his street. He said his street was designated as a neighborhood street, but has turned into a through street between Roy Rogers to Edy Road. Mr. Bevel said one neighbor on SW Houston created a handmade STOP sign that has now been replaced with a real STOP sign. He commented that it showed the level of frustration about traffic going through the neighborhood, including his own frustration. Mr. Bevel said he was advised to file a complaint with the Police, which he did, and he hoped there would be some action.

Robert Claus, Sherwood resident, commented that Sherwood has the strongest form of city manager government and that the city manager was supposed to administer almost all of the functions in the town. He said the City did not have a city attorney, but a contract city attorney that was obligated to represent the City Manager, City Council and the Mayor. Mr. Claus commented that the Planning Commission was supposed to make policy decisions in a clear way, and unlike Oregon, Canada used a hearings examiner. Mr. Claus told the Planning Commission that it shouldn't sell zoning, because the Mayor or City Councilors pressure them and commented that the 14th amendment and Title 42 USC 1983 and 1988 do not allow it. He said that when the Planning Commission looked at applications it was making a policy decision, not administering the law. He said the due process component of the Fifth and Fourteenth Amendments meant that decisions were to be non-arbitrary, non-capricious, and that reasonable language was consistently and fairly enforced.

Mr. Claus suggested that people were cleverly skirting ex parte contact and in Oregon, ex parte contact and ethics are very marginal unlike in the federal courts.

Mr. Claus commented that he had seen City Council and this body participate in private decisions where major public policy was made. He said there was denial regarding those decisions and commented about Walmart.

Mr. Claus commented that the Commission would review an application that was zoned General Commercial land rezoned to a residential density and that it was the natural consequence of what was done in the urban renewal area; Commercial and Retail zoning in Light Industrial. Mr. Claus said he hoped the Commission would be fair and consistent, but doubted they were. He suggested that in some cases there had been a conspiracy to violate civil rights and asked the Commission to spend time on the policy decisions so findings can be made rather than know that the decisions were made politically.

With no other community comments, Chair Simson turned to new business.

7. New Business

a. Public Hearing – PUD 14-01/SUB 14-01 Cedar Brook PUD

Chair Simson read the public hearing statement and asked for any ex parte contact, bias, or conflicts of interest from Commission members. She reminded that the Planning Commission would be forwarding a recommendation to City Council and would not be making the final decision.

Brad Kilby added that he had asked Chris Crean, legal counsel, to give a refresher on ex parte contact, because of social media.

Mr. Crean commented that the social media environment was expanding and civil servants use it with blogs and Facebook, which created other opportunities for people to communicate with the decision makers outside of the record in a quasi-judicial proceeding. Mr. Crean reminded the Commission that any communications in social media needed to be disclosed like a conversation in person, on the phone or through email. Ex parte contact needed to be stated on the record so that everybody had an opportunity to know what information the Commission was getting before a decision was made so they could respond to it. Mr. Crean also repeated that if any Commissioners receive an email from staff, they were not to use "reply all," because it made it a public meeting because a quorum was created.

Commissioner Robinson disclosed that she participated in testimony regarding an earlier zone change for the property in question and even though she submitted an email, she did not believe that her limited participation in that process had any bearing on her ability to make a fair and comprehensive evaluation of all the evidence.

Secondly, Commissioner Robinson disclosed that she had posted a Facebook message encouraging people to attend the meeting, but she did not engage in any discussions. There were a couple posts (by others) that did not necessarily reflect her opinion. Commissioner Robinson believed she could make a fair evaluation of the evidence without any bias.

Commissioner Clifford disclosed that he was a professional acquaintance of Jeff Simpson and that he worked with him at WRG over ten years ago. He said they have not had any collaboration on any projects and they had not kept in touch. Commissioner Clifford said there was no ex parte contact to report because he did not know Mr. Simpson would be in attendance.

Chair Simson indicated that Eugene Stewart approached her and asked regarding the roundabout near the subject property. She said she did not engage and suggested Mr. Stewart ask staff.

Chair Simson stated she worked for a company that was a wholesale distributor and commented that anyone in the building materials industry supplied to DR Horton at some point. She said her company did not sell directly to DR Horton, but to door shops and other suppliers that may sell hardware to DR Horton. She held that the connection was remote and said she would be able to perform her duties with impartiality.

With no other disclosures, Chair Simson asked if any member of the audience wished to challenge the ability of any of the Planning Commission members to participate.

Mr. Claus asked for confirmation that Chair Simson's employer supplied to subcontractors for DR Horton. Chair Simson responded that she was in the accounting department of a wholesale company that distributes to door shops, not subcontractors, nor to DR Horton. She explained that the company

sold door hardware to door shops and the hardware was placed on the doors that may be sold to DR Horton.

Chris Crean asked if the witness wished to challenge Chair Simson's testimony. Mr. Claus confirmed that he did. Mr. Crean said the challenge was on the record and the Land Use Board of Appeals (LUBA) could determine the relevancy of the testimony.

Chair Simson asked for a staff report.

Michelle Miller, Senior Planner, gave a presentation (see record, Exhibit 1) and explained that the City had received an application called Cedar Brook Planned Unit Development (PUD). She indicated that the issue before the Planning Commission was whether the Planning Commission should recommend approval of the Cedar Brook Planned Unit Development, a 66-unit, High Density Residential, development with a mix of single-family detached homes and attached townhomes. Michelle explained that one of the unique things about a PUD was that it allows a project to have some flexibility in the Code requirements and that it was a tool intended for challenging parcels for the tradeoff of innovative design and a general benefit to the community. She said the uniqueness of a PUD was that the community decides through the Planning Commission and the City Council and was not something staff could decide.

Michelle informed the Commission that staff reviews the application as in reference to the standards in the Code and for any deviations from the Code. She gave the definition of a planned unit development as *integrating buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land or multiple properties under one or more ownerships. The PUD process allows creativity and flexibility in site design and review which cannot be achieved through a strict adherence to existing zoning and subdivision standards.* Michelle explained the process for a Type V review: the Planning Commission forwards a recommendation of approval, approval with modifications, or denial of the application to the City Council. The City Council then considers the recommendation and holds a public hearing to determine whether to accept the PUD. Michelle said the City Council was the decision maker and any appeals go to the Land Use Board of Appeals (LUBA). Michelle said if the application is approved by the City Council, the Final Development Plan comes back to the Planning Commission for approval.

Michelle detailed that the project was a 66 lot residential development with single-family attached and detached homes. She showed an outlined area that indicated the parcel in review and said the site was 5.77 gross acres with 3.87 acres of developable area. Michelle pointed out that directly east of the property was Creek View Apartments, to the west was The Vineyards subdivision with Miller's Landing to the north. She said there are some commercial office buildings to the south and the intersection of SW Meinecke Parkway and 99W nearby. Michelle indicated that the property was tax lot 2S130CD13400 and the site was zoned High Density Residential (HDR). She described that the applicant has proposed lot sizes between 1,600 square feet and 3,245 square feet and said that this zone was unique from all of the other residential zones in Sherwood because it allows for no minimum lot size if developed as a PUD. PA 13-04, the Brownstone Zone Change and Text Amendment approved by City Council earlier this year, allowed for no minimum lot size in the HDR zone if the site was developed as a PUD.

Michelle related that HDR has a density range of 16.8 to 24 units. She said that if the property was developed as a standard subdivision there would be a 5% open space requirement, but because it was a

PUD, 15% of the area must be open space. She summarized that the project includes a buildable area of 3.87 acres with a minimum density of 65 and a maximum density of 92 units. Michelle said that the applicant proposed 66 dwelling units, which would equal about 17.1 dwelling units per acre, thus satisfying the criteria. She explained that after the staff report was drafted, the applicant amended site design that reduced the number of lots to 65 and increased the portion of open space. She said the applicant would address these issues during their presentation.

Michelle showed a table with the three different housing types for this development and said that 38 units will be two story townhomes with a one car garage in the front, facing Street A; 15 units will be single-family detached with rear loaded garages; 13 units will be two story homes with two car alley loaded garages.

Lot Numbers	Housing Type Description	Number of Units	Dwelling Unit Size (square feet)	Lot size range (square feet)	Number of Onsite Parking spaces
1-38	Two-story townhome with one car garage in front	38	1,500	1,610 - 2,552	38 garage and 38 driveway spaces
39-53	Two-story single family detached with rear loaded garage	15	1,304 -1,392	2,374 - 3,245	30 garage and 30 driveway spaces
54-66	Two-story townhome with two car alley-loaded garage	13	1,400	1,600 -1,974	26 garage and 26 driveway spaces

Michelle indicated that the 38 single car garages were all along the perimeter of Street A. She said that Tract G was a private street or alleyway, that Cedar Brook Way was proposed to go through to Hwy 99W and there would be 15 single family detached houses that front the new Cedar Brook Way with access off of the alley. Michelle related that there were 13 alley loaded townhomes on the other side of the alley from the single-family homes.

Note: *Private street* and *alleyway* were used interchangeably throughout the hearing. The recorder has used *alley* for each instance for continuity.

Michelle related that the standard for the single-family detached homes in the HDR zone was 5,000 square feet, and the applicant had proposed 2,374 square foot minimum lot size. She said the attached single-family townhomes standard was 1,800 square feet and a 1,585 square foot minimum was proposed. Michelle said the proposal met the lot width requirements. She related that the minimum lot depth was 80 foot and there was one unit with a 71 foot lot depth, which was a deviation of the standard requested.

Michelle defined a setback as the yard space in the front and back yards and the distance between the houses. She said the City had standards for the garage and the porch setback; garage 20 foot, porches 14 ft. and all the homes are proposed to have porches. Michelle stated that the applicant was requesting a

ten foot minimum setback for all of the lots, except for lots 38-39. The applicant requests a seven foot setback for these lots. She indicated that the applicant's materials asked for a seven foot setback on just lot 39, but the table provided by the applicant asked for the deviation for both lot 38 and 39.

Michelle related that the applicant was requesting a three foot side yard setback for all of the units and several homes were requesting a rear yard deviation of six feet, which adjusted the garage setbacks of 18 feet on lot 58 and 17 feet for lot 63. She said all the other lots would maintain a twenty foot garage setback and the heights are within the High Density Residential standards.

Michelle showed the parking layout. She said the attached units with one car garages will have room to park in the driveway and the units with two car garages will have space for two spots on the driveway with a total of four spaces. Michelle stated that the applicant proposed 79 spaces for on-street parking; Cedar Brook Way will include 60 parking spaces on both sides of the street and Street A will have 19 parking spaces on one side of the street. Michelle explained that staff had concerns regarding the one car garage units along the alley that will have limited access to on-street parking, because no parking will be permitted on the alley. She stated that the Development Code allowed garages in townhomes to be counted as a parking space, but the general parking standards did not allow garages to be counted toward the parking requirement. She commented that many perceive that garages are not used for individual parking, that the Cedar Brook area has known parking problems, and it will be something the Commission will need to review carefully.

Michelle said that Planned Unit Developments are required to have at least 15% open space that can be maintained by the public or privately maintained by the Homeowners Association (HOA). She indicated that the applicant initially had 21% or .83 acres of open space, but they have increased that and she did not have the new calculation. She showed that there were ten proposed open space tracts with the largest, Tract K (across Cedar Brook Way and apart from the development) and Tract E (in the center of the development). Michelle related that the applicant has proposed that Tract K be dedicated to the public and proposed a trail connection to The Vineyards subdivision, a connection which was part of the City's Transportation System Plan.

Michelle showed a detail of Tract K and the trail and said Staff went before the Parks Board about dedicating the tract to the City. She said the Parks Board was reluctant to accept the dedication of land, thought the area was not large enough to be a meaningful addition to the parks system, and felt that the Parks System Development Charges (SDC) credit for the dedication would be better utilized to serve the City as a whole rather than this specific development. The Parks Board requested that the developer maintain the park area through an HOA process and Covenants, Conditions, and Restrictions (CCR), but that a trail easement would be obtained.

Michelle said that Bob Galati, City Engineer would answer questions regarding how Parks SDC's were calculated and discuss street modifications requested by the applicant.

Bob referred to the letter from Emerio Design (Exhibit J, page 78 of the packet) and explained that Engineering had signed off on the proposed modifications. He stated that the letter was based on discussions between the design team and City staff in trying to resolve design criteria issues introduced during the design phase. Bob named four items: a private street modification request, a non-standard

bulb out, the intersection of Street A and Meinecke Parkway, and curb tight sidewalks on Street A (which also included rollover curbs).

Bob related that the developer first came in with a layout that had design variations already built in and said staff wanted to know about meeting the standard road layout requirements. He revealed that using the standards created a dramatic reduction in the ability to develop the lot with single family residential when utilizing spacing standards, right-of-way width requirements, public utility easements, and curbs. Bob explained that looking at the alternatives would allow for an apartment complex or opting for something in between. He said the modifications met the intent of providing city streets that meet the standards in general, that there was nothing proposed that has not been done within the City before, and the design can be defended.

As an example, Bob explained that driveway drops for Street A at each driveway would cause a lot of up and down movement, so the planter strip was eliminated and roll over curbs, already used near the cannery site in Old Town, were included. He said, because of the site layout, putting in a full street cut off too much development so the private street [or alley] was used. Bob commented that they considered how to minimize the number of units not directly accessing a public right of way, which was a requirement and indicated that page 71 of the packet was the end result. Bob said the applicant provided a layout which used a 21 foot wide, back of curb to back of curb private alley width, with a bulb out at the acute corner. He explained that the Tualatin Valley Fire and Rescue (TVF&R) standard required a clear 21 foot width, with no obstructions, and the alley had a rollover curb which met the standard and does not provide an obstacle towards traffic movement. Bob reported that the alley was a one-way street, without on-street parking and the nonstandard bulb out was for turning movements of the fire truck. He remarked that the intersection of Street A and Meinecke Parkway was not a fully developed turning intersection, did not meet the spacing standards from Hwy 99W, and was too close to the roundabout. Bob explained that it would be a right in/right out, which meant coming in to the complex on Street A and people coming out of the complex could use the roundabout on Meinecke to get to the highway. Bob asked if the Commission had any questions. There were none.

Michelle commented that there were concerns that there was not adequate on-street parking in close proximity to lots 29-38, which abut SW Meinecke Parkway. She expressed a hope that people would utilize the garages for parking and said that may not be enough. Michelle remarked on the limited amount of parking on Cedar Brook Way, that it seemed too far for visitors, that there was no flexibility or room for visitors, and it can be assumed that there will be two car families in these developments. She said there was no mass transit to this side of the city at this time and we need to be mindful that most people in our community drive their cars, so providing accessible parking was critical. Michelle repeated that the size of the single car garages in the townhomes were eight feet wide and the standard parking space was nine feet by twenty feet; these garages are smaller than the standard. She said that compact spaces and a 25% reduction can be used to satisfy the parking requirement, but she was not sure if this was the appropriate place to be putting the compact spaces.

Michelle asked the Commission to take a close look at the open space requirements and said that the Planning Commission heard what kind of homeowner might be moving into the homes during the zone change text amendment (empty nesters or young families). She suggested that the Commission keep that in mind when evaluating the areas of open space and that it should be designed appropriately.

Michelle urged the Commission to consider through the development plan approval whether the Architectural Pattern Book clearly shows what kind of housing the city will be getting and that the development met with the high community standards that the citizens expect.

Michelle commented that Tract B, the pathway that separates the Cedar Creek Apartments and this development, was five feet, but the code requires three foot buffers on either side for landscaping in between fences.

Michelle said that the proposed CC&R's could be reviewed during the Final Development Plan and they should clearly define how the site and areas of open space will adequately be maintained through the HOA. She commented that the property owners will need to have a clear knowledge, going in, that some accessory structures or decks may not be feasible with the limited setback requirements.

Michelle specified that the next steps in the hearing were to hear the applicant's presentation, then citizen testimony. After which would be staff's response with the Planning Commission making recommendation to City Council. City Council would then hold a public hearing. If approved, the applicant submits a Final Development Plan to the Planning Commission.

Michelle indicated that a citizen comment was received from Allison Holden (see Planning record, Exhibit B) who expressed concern with the school population at Edy Ridge Elementary and Laurel Ridge Middle Schools and the impact this development would have on the crowding of that school. Michelle reminded the Commission that school population and fluctuations could not be a determining factor in the approval or denial of an application. She said the Sherwood School District received notice of the application and has been in the loop regarding student projections. Michelle informed that the District's elementary schools have some schools with a lower population, the district was not at maximum capacity overall, and that they will be determining how they will be handling new population.

Michelle referred to the Staff Memo dated June 10, 2014 (see Planning record, Exhibit K) and said it indicated amendments to the staff report with some changes to the findings and recommended conditions. She asked if there were any questions.

Chair Simson suggested a recess for the Planning Commission and the applicant to read the Staff Memo and asked if any Commission members had questions for staff.

Commissioner Clifford commented that on page 25 in the Staff Report the drawing shows the Tract B between lots 6 and 7, but the staff report indicated it was between lots 22 and 23. Michelle responded that it was mis-numbered and should be between lots 6 and 7 and asked that it be amended.

Commissioner Robinson turned to page 9 of the packet, the Parks Board recommendation for Tract K and asked if staff considered the safety of pedestrians walking on the connecting trail. She expressed concern for safety because there are coyotes in the area. Bob responded that there is a lot of wildlife in the area, because it was a vegetative corridor with a stream. He said that wildlife was not considered regarding meeting the requirements of the TSP and if it was a safety concern of the trail, it would come out through the design process. He said at this point staff was reviewing if it complied with the requirements of the TSP with respect to pedestrian connectivity.

Commissioner Robinson asked how reducing the number of homes from 66 to 65 and creating more open space fit in regarding the Parks Board recommendation. Michelle responded that she would let the applicant talk about the changes made to the plan.

Commissioner Robinson turned to page 18 and asked for clarification regarding if the developer met the development standard regarding lot width. She said Michelle stated in her oral presentation that the applicant had met the requirements in lot width but the table in the staff report indicated that it did not meet the standard by half. Michelle explained that the staff report was correct.

Commissioner Robinson asked about the requirements for the number of off-street parking spaces required as to townhomes, on page 20 and the table on page 26. She said it was unclear where the standards were being met for the single-family residences as opposed to the townhomes where the garages are allowed to count towards the requirement. Michelle responded that the townhome standards allow the garages to count for the parking spaces and the requirement was to have two spaces per unit for the single-family detached homes. She said that the townhome standard was in conflict with the general parking standard that says in the footnote, that garages cannot be counted in the parking space requirements. Michelle commented that there was some discretion over which section controls, and if it would be a deviation of the standard or if the site is in compliance.

Commissioner Robinson asked if staff was counting the parking according the townhomes standards and not the single-family residences. Michelle responded that the proposed parking meets the requirements for the single family detached houses with the two driveway locations (15 units) and some of the townhomes also have two driveway spots (13 units). She said when looking at the parking standards alone, they would meet that standard, but there are 38 units that have only one driveway and one garage space. In the townhome standard that was fine because garages can be counted for the parking requirement, but in the general parking standards the garages cannot be counted. Michelle commented that when using that standard those 38 units do not meet the standard and she had specific concerns for those homes that do not abut a public street where additional on-street parking might be accessed.

Chair Simson clarified that there were 38 units with spaces in the driveways (not counting the garages). She said the requirement for detached single family was two parking spaces, and the applicant meets that because of the two driveway spots. In addition, there are approximately 79 spaces on the street.

Commissioner Cooke added that the proposed garages are eight foot wide versus the nine foot requirement, where you can actually park a car, and in essence the garages become storage space. Chair Simson responded that the garages were not being counted and all the detached houses have two driveway spots; the townhomes that have doublewide garages meet the parking with the driveways; then there are 38 units that only have one parking spot and 79 spaces on the street. Chair Simson indicated it was the proximity of the parking that was the concern, because not quite half of the 38 homes have no parking close by.

Commissioner Robinson noted that on page 26, staff recommended that the applicant consider additional parking to the nine townhomes located adjacent to SW Meinecke Parkway and asked what recommendation staff was making. Michelle responded that she was expressing concern about the amount of parking, that staff does not offer design solutions, and she was bringing it to the

Commission's attention. Commissioner Robinson asked if staff's concerns were significant enough for the Commission to require more parking spaces. Michelle confirmed.

Commissioner Robinson voiced concerns that if the Commission waited for a parking plan there would not be any more places to put parking. Michelle explained that the applicant had an opportunity to modify the design of the individual units and it would be reviewed at final site plan.

Commissioner Robinson commented on a memo from Bob Galati dated April 28, page 85 in the packet, regarding private street width and TVF&R requirements. She asked if any of the recommendations necessary to meet the TVF&R requirements would impact any of the 79 proposed parking spaces such as the ones near fire hydrants. Bob answered that there are certain areas where parking was not permitted such as in front of a fire hydrant or a driveway. He said the applicant will provide a plan identifying all of the proposed parking spaces, and staff will confirm that it complies. Commissioner Robinson asked if the parking had already been accommodated for fire hydrant locations. Bob responded that he could not tell at the scale provide, confirmed that there may not be 79 parking spaces, but that staff would ensure at the design phase. He said the applicant should take that into account, because it affects everything. Bob commented regarding fire truck turn movements and said one or two spaces may have to be dropped to make room for the fire truck.

Chair Simson asked if the Commission should consider the parking plan to the detail that it would at the final site plan review, because the Planning Commission was making a recommendation to City Council. Brad responded that it was appropriate for the Commission to raise it as a concern in its recommendation and it was appropriate for the applicant to have time to look at the parking and include it as part of the final PUD approval.

Chair Simson said the Commission would raise it as a concern and asked if they should be counting parking spaces. Brad suggested the Commission ask if the application met the required Code, but because it is a PUD, should they require enough parking and are there opportunities to recapture additional parking. He supposed that the applicant would address the reduced parking standard utilizing the garages. Brad said the proximity of parking was a legitimate concern, but designating off-street parking on a public right of way for specific units cannot really be done. He said parking would be first come, first served and we already know that the Creekview Crossing Apartments have problems with parking, as will this development.

Chair Simson called a recess at 8:11 pm and reconvened at 8:21 pm. She asked for any communication that took place over the break.

Commissioner Cooke disclosed that she was asked a question by a member of the audience and she referred them to Michelle Miller.

Commissioner Robinson said that she asked Michelle a clarifying question regarding the trail with another member of the audience that did not pertain to the proposed development.

Chair Simson asked for applicant testimony and reminded that they would have 30 minutes to split between presentation and rebuttal.

Steve Miller, with DR Horton Homes requested additional time if possible. Chair Simson responded that if the Commission asked questions it did not count toward the time.

Mr. Miller introduced Jeff Simpson from Simp.L LLC, a landscape and architecture firm; Neil Fernando, from Emerio Design, for engineering questions; and Andy Tiemann from DR Horton. He said he would give an overview of the project and address staff issues raised.

Mr. Miller indicated the project property was 5.77 acres located at the intersection of Cedar Brook Way and Meinecke Parkway and one of the unique aspects of the project was that the proposed road cuts a portion of the property off, leaving a remnant parcel on the west side that has to be addressed. He said that another component was a zone change to HDR and the recommendation that the development not contain apartment units like the property to the east. He explained that the applicant had tried to think outside of the box to come with a design that was unique to other areas of the city. Mr. Miller described that they had worked closely with staff regarding the design elements of the streets, the layout of the housing type, where the open space would go and how the open space could be the most efficient use of the land. He confirmed that the proposal had changed for the 66 lots to 65 lots, the minimum density for this zoning district. Mr. Miller related that one less lot allowed them to create more open space so there was about 40% more open space then required by Code for a parcel of this size. He expressed a hope of meeting the needs of the residents of the project by providing adequate space to move around.

Mr. Miller commented that staff raised concerns over parking. He said that the parking requirement was met for the project on individual lots by providing two parking spaces in the driveway or through a combination of the driveway space and on-street parking. He said they were required to provide 247 parking spaces and 267 spaces were provided in a combination of on-street and off-street parking. Chair Simson asked if that included the garages in the attached homes. Mr. Miller responded that it included what was allowed to be counted, they met the parking standard even with the Code conflict, and on-street parking could be counted to make up for that shortage. He said the combination meant they had twenty more spaces than required by Code. Regarding staff's concern for the attached units along Meinecke Parkway, Mr. Miller suggested creating language in the HOA CCR's that said the garages must be available for parking for those units. He acknowledged that it would limit the storage but could ensure that the garage space was available for parking for the dwelling units along Meinecke Parkway, as well as those along Street A, because they are the same product type. Mr. Miller said they felt they had the means to be able to adequately address parking concerns by putting provisions in the CCR's.

Mr. Miller gave a presentation (see record, Exhibit 2) and showed the layout of the project. He displayed an overview with 65 dwelling units with the single-family detached housing oriented to the south to create separation and space for solar access into the interior of the project. Mr. Miller presented that the more dense units were to the east side, abutting the density of the existing apartments. He said the housing type transitioned into less density moving towards Cedar Brook Way where the single family homes were and within that there was open space, trails and connectivity to the property on the west side of Cedar Brook Way where there is a park for the residents.

Mr. Miller showed a plan view of an apartment complex on the property and said if a PUD was not done, and the Code was met at face value, it could end up as shown. To answer Chair Simson's question

about how much density an apartment complex would achieve, he said it would be a significantly higher density and there would be a large parking lot.

Mr. Miller showed the on street parking configuration and revealed the architecture of the product displaying several renderings. He presented examples of detached homes, some with the same floor plan, but different architectural techniques for the fronts. He said there was a variety of what could be done with the single-family detached homes and similar designs would not be set side by side in order to create a diverse street scene along Cedar Brook Way. Mr. Miller showed examples of the attached homes that would front along Street A and on Meinecke Parkway. He then showed examples of the attached homes that would be on the interior of the subdivision with the rear loaded garages off of the alley. He ended with an overall design of the subdivision showing the trail connections. Mr. Miller said the trail along Meinecke Parkway showed the Cedar Creek Trail across Hwy 99W over to the trail connection that needs to be made through west side of the property.

Jeff Simpson, landscape architect and planner with Simp.L LLC gave a presentation (see record, Exhibit 3). He said his purpose was to present a case for the innovative distribution of the open space to better serve or benefit the community. Mr. Simpson showed a map from the Cedar Creek Trail Master Plan that showed trails in reference to the proposed development and said the trail master plan route abuts the south edge of the property. He said the proposed portion would provide connectivity to that trail infrastructure. He showed an overall site plan and explained that the various green spaces on the map were the areas of open space and private yards. Mr. Simpson said there was quite a bit of open space in relation to the overall project, and as staff pointed out, for open space requirement for a subdivision is 5% and a PUD has a 15% open space requirement; this project was offering 21%. He maintained that the project was better serving the community by dispersing the usable neighborhood open space throughout the neighborhood thus creating more community links to open space in a sequence that promotes healthy community. Mr. Simpson said they believed that “pocket parks” provide a more sensitive integration and distribution of building massing which allowed for better solar access to the buildings and open space. He said there were two main pocket parks; a centrally located active space with a play structure and fitness amenities in the center and across Cedar Brook Way, to the west, a pet exercise area or dog park. Mr. Simpson commented that the pocket parks amenities were integrated into the public realm, offering opportunities to connect the community and the neighborhoods. He showed an illustration of the site displaying the connections on the east side of the property through the trail corridor.

Chair Simson asked if the redesign from 66 lots to 65 lots increased the width of Tract B to accommodate the required sidewalk and setback. Mr. Simpson responded that the amended site plan integrated a five foot sidewalk and the three foot side yard setbacks to accommodate for landscape buffers on each side of the trail at a total of eleven feet. Mr. Miller confirmed that sidewalk and the landscape buffers have been set aside in Tract B and the townhome building setbacks on either side will be to the property lines.

Chair Simson received confirmation that when the townhomes put up fences the three foot landscape buffer would remain. Mr. Simpson explained that the applicant intended to pull materials from local public infrastructure and architecture by using brick and concrete seen in adjacent projects. He showed some slides using brick pavers in the sidewalks and a three rail fence into the dog park. He showed

photos to help understand the location of the project and the empty field that the site currently looks like.

Mr. Simpson showed models of the site that contained quotes and information taken from a variety of media including excerpts from the City of Sherwood's Parks Master Plan. The first one was from www.pocketparks.net and spoke to the community benefits associated with pocket parks and linked systems throughout communities. Mr. Simpson showed a view of the corner pocket park in the development and said it was providing a brick pad, bench, and some fitness amenities. The next two slides showed views of the primary interior open space and Mr. Simpson commented that they were providing a central play structure, trash receptacle, a dog waste station, a couple of benches and additional fitness stations. He described that the project integrated a pedestrian sidewalk that linked to the resident's front doors and said the alley loaded units face the central courtyard with sidewalks that radiate off the central route. The next two slides showed views above looking east and showed an overlay of the Cedar Creek Trail Master Plan. Mr. Simpson commented on the connectivity to the adjacent community which led to the dog park and the trail to Lady Fern Park, then on to Edy Ridge and Laurel Ridge schools.

The next slide illustrated the amount of open space. Mr. Simpson said it showed how the open space had been integrated throughout the community to evenly distribute the amenity for the neighborhood. He read the quote on the slide from the American Planning Association that read "*Successful pocket parks have four key qualities they are accessible; allowing people to engage in activities; are comfortable spaces and have a good image; and finally, are sociable people meet each other and take people to where they visit*". The next slides showed views from the northeast corner looking southwest. Mr. Simpson said they represented the private yards and public open spaces or pocket parks. He recounted that it could be seen how the pedestrian facilities had been integrated to be cohesive and connective; linking the spaces together in a coherent way. Mr. Simpson read the quote from the National Recreation and Parks Association "*Pocket parks have been successful because they are able to respond to the needs of local communities*" he spoke of another quote that referenced the impact of pocket parks on property values. Mr. Simpson showed a few slides of the corner of the property near the roundabout with the dog park and read the quote from the City of Sherwood Parks and Rec Master Plan regarding national trends and the integration of sports related activities like walking and exercising with equipment. He pointed out a second quote from the Master Plan regarding core values and guiding principles that included community and family, recreational opportunities, connectivity, sustainability and balance. Mr. Simpson said they felt that distributing the open space throughout the community created a balance and sustainability through solar access to the park spaces between the buildings. He concluded by saying that the project vision was from the Master Plan which was to balance passive and active, sport and non-sport recreation, connectivity and walkability and the applicant thought their open plan addressed all of these goals.

Mr. Miller pointed out some of the conditions of approval in the staff report.

- F.5. *Design, construct or pay a fee in lieu of 125% of the estimated construction costs for the trail extension from SW Cedar Brook way to the connection at the Wyndham Ridge subdivision trail.* Mr. Miller asked if the condition could have a fee in lieu of, or a bond for that improvement.

- G.6 *Install the perimeter screening separating the residential zones of the single family homes with the multifamily development to the east.* Mr. Miller said they were unsure what the referenced fencing was and needed direction as to what and where it was.
- H.6 *Fences separating lots from adjacent pedestrian access way may not exceed 42" in height unless the fences are setback with at least three (3) feet of landscaping from the pedestrian easement.* Mr. Miller said they were unclear of what staff is requiring with the condition.

Mr. Miller offered to field questions from the Commission.

Commissioner Clifford turned to the second Recommended Condition on page 35 regarding a water quality treatment facility, which read, "*The public improvement plans must include detention and treatment of all storm water on the site in compliance with Clean Water Services standards,*" and asked if the applicant would address the facility as part of the open space. He said if a detention pond had to be built, if it would be built per the plans or somewhere else on the site.

Neil Fernando, Emerio Design, reported that there is an existing water quality facility off site that was built as part of the apartment complex almost at the corner of Cedar Brook Way and 99W. He said the applicant was proposing to expand that and that there was a pipe stubbed to their site at the end of the exiting Cedar Brook Way. Mr. Fernando explained that all the low flow would go into that pipe and into the existing water quality which would be expanded and replanted as needed. He said the high flow would go directly into the creek off of Cedar Brook Way.

Vice Chair Copfer commented that the applicant was using a lot of on-street parking to make up the required parking spaces. He asked how the applicant planned to mitigate the parking spaces for the project and not have cars from the apartment complex use them. Mr. Miller responded that they had discussed, with staff, the creation of a parking district, that they have not been directed to move forward with that, but were willing to work with the Police Department to establish a parking district for the project. He expressed hope that it would be a mechanism to allow the parking to be more available for this project and alleviate some to the current congestion.

Vice Chair Copfer pointed out that that without a parking district a number of the spaces would be taken up by the apartment complex. He said the proposed on-street parking was intended for and being used to get approval for this project.

Mr. Miller commented that it would be a reasonable condition to require the project to establish a parking district. He noted the obvious parking issues with the apartment complex and said there was nothing to be done about that at this time and the developer could move forward with this project and try not to have it become worse.

Commissioner Clifford expressed concern with Street A and the rolled curbs. He said if someone needed to make a quick stop, they could drive up onto the sidewalk temporarily. Mr. Miller responded that there would be a planting strip between the curb and the sidewalk and the rolled curb would only be used on the alley. Chair Simson added that there would be no street parking at all on the alley.

Chair Simson indicated that the Commission has reservations for setbacks reduced beyond 10 feet. She asked the applicant to explain how many lots were requesting setback reductions and the context for

those reductions. She commented that the Commission had defined a 14 foot setback and the proposal asked for all of the porches to be ten feet or less.

Mr. Miller explained that the property was uniquely shaped and in order to get a reasonable sized home with parking, a porch, and amenities, plus get the street outside of the environmentally sensitive areas, it created some pinch points on some of the homes where some of the setbacks are less than fourteen feet. He acknowledged the Planning Commission's desire and commented on the attempt to design something that was functional. Mr. Miller explained that because of the street in that location, the plan ended up with some reduced setbacks.

Chair Simson responded that she was trying to get context, because it read as though 65 lots had porches set at ten feet, with lots 38 -39 set back at seven feet.

Mr. Miller responded that that not all 65 lots would have porches set back at ten feet because the homes to the east, along Meinecke and the ones in the interior have the front yards with the driveway set back twenty feet. He said the only lots that have a reduced front yard setback are the single family detached and primarily at the roundabout where the property curves. Mr. Miller explained that when coming off the curve of the round-about, the houses pull back from the street and gain space. He commented that the reduced setback will not be used all the way through the project, but that the minimum setback occurred where there are pinch points.

Chair Simson asked if the porches would be fourteen feet with the exception of the single family detached which could be setback at least ten feet or more. Mr. Miller confirmed and added that at the corner, there are single family detached that will have the smaller setbacks and as you move up to the middle of Cedar Brook Way the setbacks increase beyond ten feet with a nearly twenty foot setback near Street A.

Chair Simson indicated that she wanted the language to be correct in the documentation so it is clear the Planning Commission was not allowing reduced front porch setbacks on 65 lots, but allowing reduced front porch setbacks on a few of the detached homes based on said pinch points. Mr. Miller said the applicant would get the information to staff specifying exactly which homes needed the smallest setbacks. Chair Simson said the Commission could work with staff to have language crafted that addressed the concerns so the whole area does not have reduced setbacks. Mr. Miller clarified that lots 39 through 65 had the smaller setbacks. Chair Simson responded that it was more than she had anticipated. Discussion followed. Chair Simson asked for concrete information regarding setbacks.

Chair Simson commented that on page 19, the single family detached had corner side yards had six foot side setbacks proposed, but were supposed to have a fifteen foot setback. She asked if that was proposed for all of the lots. Mr. Miller responded regarding the following corner lots:

- Lot 1, adjacent to Cedar Brook Way, a reduced side setback near the front of the building
- Lot 28, on the other end of the row of houses along Street A, a reduced side setback near the front of the property line, next to open space which increased the separation between the home and the sidewalk
- Lot 53, a reduced side setback at the front near the driveway where it is pinched

- Lot 38, a reduced side setback, but also next to open space

Mr. Miller said that in the areas where the corner lot setbacks are reduced, they were trying to have open space to offset the impact. Chair Simson commented that the CCR's would not allow a six foot tall fence on those side yards. Mr. Miller responded they would not want that look.

Chair Simson commented on the six feet setbacks that acted as a buffer to the neighboring property. Mr. Miller replied that lots 1-28 on the east side, adjacent to the apartment complex had been adjusted so every lot had a minimum of fifteen feet between the back of the home to the property line. He said they recognized that those were smaller setbacks and had adjusted the plan to gain space on those lots. Mr. Miller said they had shared that information with staff and can submit the rest of that information into the record. He explained that the reduction of one lot moved the homes down to gain some additional space and per the City Engineer's testimony, there are some design modifications to the street standards. He said the applicant had requested a modification to the sidewalk near the park and next to the wetland so they did not encroach into the wetland, which they did not get approved which resulted in shifting the street. That has resulted in some of these changes.

Chair Simson commented that there were a lot of variances for setbacks, that the Commission had recently redefined front yard setbacks, and expressed concerns for not going below fourteen feet. She offered that the Commission needed to have a comfort level in order to recommend approval because of the lots that are deviating from the minimum setback. Mr. Miller concurred and commented that one of the struggles with a planned unit development was how to address those setbacks so it is clear and they chose to speak to the worst case scenario, which are the homes at those pinch point areas. He said they tried to maintain consistency, with reasonable setbacks, but could not because of minimum densities without having an apartment complex on the oddly shaped lot.

Chair Simson said it was the Commission's responsibility to consider the worst cases and commented that the setbacks would be easier to meet with a forty foot tall, three story apartment complex. Mr. Miller commented that this was why the street scene was set around Cedar Brook Way, to give the single family home street scene as opposed to the large building walls and parking spaces from an apartment. It was that balance between trying to achieve something unique and trying to find setbacks that are reasonable.

Chair Simson commented that the more dense housing was toward the center of the project.

Chair Simson asked if there were any other concerns from the Commission before public testimony.

Vice Chair Copfer asked about the rolled curbs on Street A. Mr. Miller responded that only the curb on the east side of Street A would be a rolled curb not the side where the alley is located. Chair Simson commented that this was so a pedestrian on Street A would not be walking up and down the driveway drops.

Vice Chair Copfer expressed concerns about the parking. He liked that the applicant wanted to address the parking with a parking district, but had concerns about existing apartment complex with a huge parking issue with a new subdivision of houses across the street. Vice Chair Copfer acknowledge that there were parking issues all over Sherwood, but he did not think that meant the Commission should allow more parking problems to be created. He wanted the parking problems to be mitigated in this

project and questioned how to mitigate this project's motorists from taking up parking spaces from the apartment complex or street parking along the houses being built.

Brad Kilby acknowledged Vice Chair Copfer's concerns and asked the Commission to consider that the subdivision will meet the minimum parking requirement; the apartment complex met the requirement when it was built, and this project was proposing to meet the minimum parking requirements. He intimated that you could not tell people how many vehicles they could drive. He stated that if the community sees parking as an issue the minimums might be too low, but Sherwood falls under Metro's guidelines and does not allow the minimum requirement to be set higher. Brad said you couldn't control the behavior or the number of vehicles that people own and commented that in Eugene or Corvallis, they are trying to fix parking for student housing, but they can make changes because they are outside of Metro. If you are building a three bedroom apartment in Corvallis you have to provide three parking spaces, but Sherwood does not have that standard. Brad added that the question that must be answered was if the applicant has met the standard and with a PUD, there was more subjectivity. He suggested the Commission ask what it can direct the applicant to do to mitigate the issue or to find parking by sacrificing either open space or minimum density.

Vice Chair Copfer commented that he was looking at it from the perspective of not dictating the number of cars someone owns, but more about having the parking district as a good solution. Chair Simson added that the applicant was willing to add garage parking requirement in the CCR's.

Mr. Miller said that the garage parking requirement would be for all the homes along Meinecke Parkway and along the east of the property. They would not be allowed to over store in the garages that would preclude them from parking there. He mentioned that there was discussion about the width of the garages and that explained that once the garage door was open there was about nine by twenty feet deep which included some space for storage and a vehicle which the CCR's would address.

Commissioner Cooke asked if there was a precedent in any of the other neighborhoods where that requirement for garages was used. Mr. Miller asked Andy Tiemann, from DR Horton to respond. Mr. Tiemann said that most of the DR Horton Communities use CCR's which specify that the garages cannot be used for storage and must be used for parking. He said they have been successful in most of their communities and parking is enforced by the HOA. Mr. Tiemann added that HOAs are well managed these days, and it has been a positive. He said these homes have been built in Happy Valley, Hillsboro, Vancouver and Seattle Washington and people like them.

Commissioner Clifford asked if the HOA was a neighborhood volunteer organization or managed through an outside source. Mr. Miller responded that Blue Mountain was their HOA property manager and that DR Horton maintained the HOA until 80% or more ownership. At that time the HOA elected their own officers to carry on the association. He said DR Horton set the CCR's and a budget for the HOA before selling homes so when people come in they know what they are committing, what the dues will be and how the community will be managed. Vice Chair Copfer received confirmation from Mr. Miller that there would be an HOA board with the management company providing the management.

Commissioner Cooke asked how feasible it was to do a parking district and asked if there were any other parking districts in Sherwood. Bob Galati answered that there was one other parking district in the Woodhaven community where parking is enforced. He said Chief Groth instituted the district at the

beginning of the 2013-14 school year, and it seemed to be working because there are fewer complaints from residents regarding high school students parking in the area. Mr. Miller related that he had spoken with the Police Chief on the issue and who was open to the idea, but wanted direction from the Planning staff as to whether it was necessary. Commissioner Cooke asked if that would include a temporary visitor space. Bob said he believed that the residents had parking cards and were allotted a certain number of visitor's passes.

Julia Hajduk, Community Development Director supposed that each parking district could be unique based on the needs of the district and the process was for the district to be created by legislation and approved by Council. She said the parking district near the high school was limited to certain hours. Vice Chair Copfer added that in a resident could use the pass to park on the street and allow the visitor to park in their driveway. He said that the parking district has been very effective.

Note: Commissioner Robinson left the meeting at 9:19 pm. The Planning Commission still had a quorum with five members remaining. If Commissioner Robinson (or Commissioners Griffin and Walker who were absent) wished to participate at another hearing for this matter they would have to listen to the meeting or read the minutes.

Chair Simson asked how much remaining time the applicant had for rebuttal. Kirsten Allen replied that there was about six and half minute's worth of questions within the applicant's testimony. Added to the remaining time on the clock the applicant had eleven and half minutes.

Chair reminded anyone who wanted to testify to fill out a blue card and called for public testimony.

David Emami, Sherwood property owner of the office buildings adjacent to the proposed action came forward and explained that the entrance to his parking lot had been chained to prevent apartment residents from parking in the lot and vandalizing the property that included shooting out the windows. He said that Mr. Doyel's visitors had left dirty diapers on and walked through his property. Mr. Emami asserted that Mr. Doyel should have been present at the meeting and that if individuals owned the apartments, instead of renting them, the Community Room and the Library would not be large enough to hold all the people that would be in attendance at this meeting. . He said all of the neighbors were polluters and that Mr. Doyel was deficient by 50-60 spaces in his parking lot where overflow parking takes place on Handley Street. Mr. Emami acknowledged that parking in the area was a problem and he was the only one who came to talk to the Planning Commission.

Mr. Emami related that he was involved in a Planned Unit Development in the city of West Linn and he could see a difference in public involvement because West Linn is an older community. He commented that the number of the exceptions on developments created a mess. Mr. Emami said he was not opposed to the project, but that developers had to be responsible. He explained that he had developed over 18 million square feet of land in Oregon and a PUD in West Linn an additional parking lot was designed next to the neighboring Burgerville as a buffer. Mr. Emami commented that parking districts near OHSU and northwest Portland did not work because the permits are copied and enforcement does not realize they are fake. He expressed his opinion that the variances should be denied and consider that other people are contributors to the problem.

Robert Claus, Sherwood resident requested that the record be kept open for two weeks and commented that there were not any standards for a PUD. He commented on using the terms variances or exceptions not deviations. He said if the development was approved, Cedar Brook Way would not be able to be used as a collector and suggested that the Commission go look at the apartment parking. Mr. Claus commented that there was no parking available and that Mr. Doyel did the same thing; the hearings officer tried to stop him but the City agreed to count the spaces as parking. He asserted that the problem has been building up and the Planning Commission needed to get an investigation into it, because the police won't enforce the parking. Mr. Claus compared the development to Walmart housing and expressed that he did not understand what the Commission was doing. He said there were issues with a collector street, parking, density, that the counts were wrong and that there is a wetland on the other side. Mr. Claus commented on Mr. Lucas losing property to foreclosure and said it was formerly owned by Howard Hadley. He commented on Mr. Miller's employment for Centex Homes during the construction of the Vineyards and said he did not like Texas where DR Horton originates. Mr. Claus said Mr. Miller did not have his facts straight and again requested that the record be held open.

Mr. Claus commented on an apartment complex with a hundred units downtown and said that parking was cut to three-quarters parking space per unit. He said parking did not mean anything and commented on the Arts Center. Mr. Claus asked the Commission to think about what it was doing and said there was no rule here anymore.

Mr. Claus said that Mr. Keyes had almost the same density the applicant was proposing, that it was 14 units [per acre] with a minimum of 17. He commented that Mr. Keyes had more open space and play area and he had a parking problem.

Mr. Claus commented regarding trespassers on his property, regulated wetlands, and about running Cedar Creek Trail through his property. He said the Commission had a property owner tell them that Mr. Doyel was adding parking and they had better sit down and work it out. He commented that he did not care what the Commission decided and said there were different rules for the Claus's, the Doyels, the Shannons, and the Elks. Mr. Claus said he did not like the American Planning Association, because it has never zoned anything for animals, but nobody was going to get into that ground down below thanks to Governor Roberts. He said he did not want kids going down there and killing the birds and snakes and messing around, because it was left for the next generation for clean water.

Jennifer Harris, Sherwood resident said some of her concerns were mentioned by Mr. Claus and Commissioner Robinson and that she represented her HOA as President. Ms. Harris commented regarding how much parking would be taken away by the fire hydrants and driveways and parking on the sides of Tract A. She assumed 90% of the homes would go to two parent families with children and said parking on two sides of the street in an area like that was super dangerous. She expressed concern for a child being hit by a car and asked the Commission to think about putting a path and a park on one side of a street that has parking on both sides. She commented on how to usher kids across the street and what would happen when the three year old gets away from mom for a second. Ms. Harris spoke of a girlfriend that was going about 20 mph and killed a two year old who got away and came out between two parked cars. She suggested that many homes would be sold to first time buyers with small children instead of empty nesters and commented on the magnetism of Sherwood and Edy Ridge Elementary. She said she used to drive a minivan that was 17 feet from front to back, commented that a twenty foot

garage would not leave much room and on forcing homeowners to park in their small garages did not mix. She suggested making the garages bigger and then telling homeowners to park in the garage. Ms. Harris remarked that she did not know that parking in front of driveways was illegal and that they had been dealing with it in her neighborhood. She agreed that keeping the apartment complex from parking on the street was tricky, and asked if the city had to allow the street parking to count as the parking count for these buildings. She suggested having the street parking as a bonus for guests and that the homes needed to be self-contained. She did not like the idea of saying one house requires two parking spots and the other has one parking spot here and one four blocks down around the corner and to the right. Ms. Harris recommended taking out a unit on each end and throwing in six parking spots at each end. She thought there was a way to do it but it would hurt profits. Ms. Harris said permitted parking gets messy and it was a better idea to get the homes to have designated parking and not be shared with grandma, the apartments or the dentist. She asked the Commission if it was looking at all of the units (including the new homes and apartments) or just compartmentalizing them and not thinking of the full scope. Ms. Harris asked who was providing the fitness and play structures.

Ms. Harris said her HOA was a DR Horton development and they did exactly what they said. They hung around for the first 80% and then they were gone. She said when she moved in, the dues were being paid to a bank account, there was no board, and no president. Half of the people were paying dues and none of the rules were being followed. Ms. Harris related that she has been in the neighborhood for nine years, and has been a very lenient HOA president for four years, but her neighborhood is different and could be more flexible. She said some of these things require structure and that concerns her. Ms. Harris encouraged the Planning Commission to look deeper into the situation and think long term, because when the HOA and the CCR's went into her neighborhood it probably seemed great, but five years later there was nothing being done with no rules being followed and nobody managing it.

Chair Simson wished to clarify a couple of points. She said in the TSP, Cedar Brook Way was a collector on the south side because it is intended to be the frontage road for 99W. She said Cedar Brook Way was a neighborhood street north of the roundabout and was meant to collect traffic from a few houses.

Chair Simson clarified that parking on Street A is only on one side and although Cedar Brook Way has parking on both sides, it is a steep slope on the opposite side of the development so there is a suggested crosswalk for the path.

With no other public testimony, Chair Simson recognized a request that the Commission keep the record open for two weeks. Chris Crean offered that the record could be kept open for written record comments only and the hearing could be continued to a date certain. He clarified that the statute requires the record to be left open for seven days or more. He said if the Commission wanted to close the record for public testimony it would want to hear the applicant's rebuttal first, but if it was going to continue the hearing it could defer the rebuttal to the next hearing date. She conferred with the rest of the commission and it was determined that the hearing would be continued and the record left open to June 24, 2014.

Chair Simson asked the applicant to come forward with any rebuttal comments.

Mr. Miller commented regarding the public testimony and said that this project was unique in that all the units would be purchased by someone who will own them which generally adds a higher level of

maintenance to the area. He expressed anticipation that people living in the development will take pride and want to maintain their homes and the park across the street. Mr. Miller commented that a PUD approval allows variances through a process and there are not separate variance applications. In terms of the area on the southwest side of the Cedar Brook right of way, he said they had worked with Clean Water Services and received a Service Provider Letter that indicated that their facilities were not located in the wetlands nor in the vegetative corridor. He clarified that a Service Provider Letter was required prior to application that verified that there was no impact to those areas. Mr. Miller said he could not control what other people may do in those areas.

Mr. Miller specified that the fire hydrants spacing was 300 feet and they were anticipating one or two fire hydrants with the project. He said one possible location was the intersection of Street A and Cedar Brook Way where it rounds so it did not remove a parking space one or two spaces could be lost. Mr. Miller confirmed that parking would be on both sides of Cedar Brook Way and asserted that when parking is on both sides of the street, speeds are reduced; as the corridor gets tighter people slow down and pay more attention. Mr. Miller offered to provide documentation.

Mr. Miller clarified that they were not requesting any variance to the garages, but proposing a single garage instead of a double garage, because that was the product type and it fits in this community. He confirmed that there was no parking on the east side of Street A and supposed one could park in front of their own driveway.

Mr. Miller commented that one of the key components to the property when it was rezoned was to maintain the minimum density requirement established in the comprehensive plan and removing homes to create parking spaces would not meet that density. He said that when you rezone a piece of land, the State is looking for an efficient use of the land, 65 dwelling units was the minimum density for the zoning district, and going any lower would put the City in jeopardy of not meeting the intent of what the state has put in place. Mr. Miller said there were a lot of dynamics that developers juggle in a land use process to get a project like this built. He believed they had spent a significant amount of time with City staff and their engineers to come up with a plan that would provide a quality project that addresses all of the concerns people would have. He acknowledged that there would always be concerns that don't get addressed as well as some that people would like.

Chair Simson turned to page 18 and 19 in the staff report and said that the way it read it appeared that the worst case scenario variance was being requested for all of the lots. She asked for clarification regarding which lots would be impacted and what those variances were. Mr. Miller established that he would provide a color legend for the lots. Chair Simson expressed that reduced setbacks that abut the park in the center were different from a setback on the street that is open to the community.

Vice Chair Copfer asked regarding the impact to the City if the project did not meet the minimum density by two units. Julia responded that the Development Code had a minimum and it was not the State that dictated density, but Metro in the Functional Plan requirements. She said without some sort of variance from Metro, the City could not authorize or recommend approval for something that clearly did not meet the Code criteria and there would have to be some process. She was unaware of a variance to density.

Discussion took place as to how to continue the meeting. Chris Crean informed that the hearing could be recessed. Chair Simson recessed the hearing for two weeks and said when the hearing was reconvened the hearing will be opened for further comment and the applicant will submit new testimony.

8. Planning Commissioner Announcements

There were no Planning Commissioner Announcements

9. Adjourn

Chair Simson adjourned the meeting at 9:53 pm.

Submitted by:

Kirsten Allen

Planning Department Program Coordinator

Approval Date: _____